

**Green, LindaE**

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**From:** Charles Seife <cs129@nyu.edu>  
**Sent:** Tuesday, April 3, 2018 9:40 PM  
**To:** FOIA HQ; FOIA HQ  
**Subject:** \*EXPEDITED\* FOIA request re: today's announcement

4/3/2018

**REQUEST FOR EXPEDITED PROCESSING**

Dear FOI officer,

This is a request under the Freedom of Information Act, 5 USC §552. I request expedited processing for the reasons I outline below. As per the Act, you must grant or deny this request within 10 calendar days.

I am a journalist and journalism professor who is investigating how government agencies and their press offices and media personnel attempt to control coverage of federal agencies by the press.

Today -- April 3, 2018 -- Secretary Pruitt announced that the EPA would be revising emission standards for automobiles. However, according to numerous reports, the agency tried to limit access to the press in ways that might be contrary to the law.

According to a tweet by New York Times reporter Hiroko Tabuchi this morning, "We're now hearing that Pruitt plans to announce the auto emissions decision at an invitation-only event at EPA headquarters, surrounded by friendly press and industry reps. NYT hasn't been invited." (@hirokotabuchi, 4/3/2018, 10:03 AM)

Reporters from Politico, BuzzFeed, The Hill and other publications reported that they were not invited to the event; in some cases, they reported that repeated requests for access had been ignored.

According to CNN, "EPA had attempted to allow television camera access to Fox News without informing the other four networks: CNN, ABC, NBC and CBS. Fox alerted the networks and a pool was established allowing networks equal access to the event." ("How EPA's Scott Pruitt avoided tough questions on Tuesday", CNN.com, 4/3/2018, 4:23 PM)

This action on the part of the EPA may, in fact, be unconstitutional. (See, e.g. *Police Department v. Mosley*, 408 U.S. 92; *Sherrill v. Knight*, 569 F.2d 124 [DCC].) Thus, there exist significant questions about the agency's integrity -- over and on top of current questions about the Secretary's integrity -- that need to be urgently examined.

I therefore request the following records:

Any e-mails, memos, or other documents, dating from 3/19/2018 until the date at which this request is processed, which discuss planning of, execution of, invitations to, or any other aspect of the announcement of the agency's decision to revise emission standards for automobiles and/or Secretary Pruitt's appearance to make this announcement. These documents should include, but not be limited to:

- a) e-mails or other communications with Geoffrey Pohanka, Pohanka Chevy, or other possible hosts of Secretary Pruitt's planned appearance.
- b) e-mails to and from journalists regarding the announcement, including (but not limited to) invitations to attend, press releases, requests to attend, and complaints about not being invited. It is expected that these e-mails are likely to contain exchanges to and from FOX, CNN, ABC News, CBS, Politico, BuzzFeed, The New York Times, The Hill, and numerous other outlets.



c) e-mails to and from other entities/personnel who were invited to the event.

d) e-mails to and from Secretary Pruitt regarding the announcement/appearance/event.

I expect that these documents will likely be housed in the Office of the Administrator, the Office of Public Affairs, and/or the Office of Executive Secretariat. In the interest of expediting this request, I would be willing to limit the search to these offices, so long as Secretary Pruitt and the other key actors in the planning of this event are considered to be located in these offices.

In case any of these requests are denied, I request:

a) that a reason for the denial is given in writing

b) that the nonexempt portions of those records be released with the omissions clearly marked and the reason for the omissions clearly explained

c) that all documents responsive to this request be identified in the response to this FOIA, regardless of whether those documents are releasable or not

If possible, I would like to receive the documents in electronic format -- PDFs, DOCs, TXTs, RTFs, TIFFs, JPGs, GIFs, or other commonly-used formats would be fine.

As a member of the media, I am entitled to be placed in the "news media, educational, or scientific requesters" category. As such, I should only be charged for duplication fees beyond the first 100 pages.

Further, I assert that this request is in the public interest, because it is likely to contribute significantly to public understanding of the operations and activities of the government, and I therefore request a waiver of fees.

As for the rationale for expedited processing, I assert that (a) I am a person primarily engaged in disseminating information to the public and (b) there is a particular urgency to inform the public about the government activity I describe above. Consequently, this request meets the regulatory requirements for an expedited request as described in 40 CFR 2.104(e).

I am a person primarily engaged in disseminating information to the public. Specifically, I am an award-winning investigative and science journalist and professor of journalism. I write frequently about media ethics issues, scientific integrity issues, and have frequently made use of FOIA requests to advance knowledge in this area through articles in the media. This request is at a nexus of several areas of my expertise: the circulation of scientific (and environmental) ideas and media manipulation by government entities -- and I have written a number of acclaimed articles on precisely this subject. (For example, my October 2017 article in Scientific American, "How to Spin the Science News," explored the use of embargoes by FDA's press office and was a finalist for this year's Mirror Awards. ) I am also cited in the press as an expert on press ethics media manipulation by sources of scientific information. (See, for example, "How Journalists can hold Scientists Accountable," Pacific Standard, Mar. 22, 2016. )

There is a particular urgency to inform the public about the government activity I describe above. Within the past several days, a number of serious ethics charges have been levied against Secretary Pruitt. Specifically:

-- On March 29, it was reported by Bloomberg and ABC News that Secretary Pruitt had a sweetheart tenancy deal at a DC condo owned by lobbyists who have lobbied the EPA on behalf of an energy company.

-- On March 30, it emerged that a U.S. Senator was accusing Secretary Pruitt of using his security detail on personal trips to Disneyland and the Rose Bowl.

-- On April 3 (today), numerous media outlets reported that Pruitt engineered questionably-large salaries for two of his aides.

These questions about ethics bear directly on the emissions standards decision. Today, another Senator demanded

"answers as to how [Secretary Pruitt] came to the disastrous conclusion to gut the critical fuel economy emissions standards," implying that Pruitt's ties to industry might have been responsible.

The documents in this request will bear directly on the ongoing scandal in which Secretary Pruitt is involved in, and examine the degree to which the Secretary's and the agency's actions surrounding this announcement are unethical and perhaps illegal. These documents will likely show who, within the agency, was responsible for the decision to blackball certain journalistic outlets and the motivation for doing so -- and whether or not this blackballing was in retaliation for recent press coverage unflattering to the agency and to the Secretary himself. It will also shed light on what the government was up to when it decided to invite industry participants to the event -- indeed, when it planned to host the event at an auto dealership -- while simultaneously dodging scrutiny by the media. It will also help illuminate why the agency was so keen to avoid media coverage -- with the apparent exception of FOX news, a highly sympathetic media outlet. All of these factors show that these documents have the potential to contribute significantly to public discussion and perception of an emerging ethics crisis that is presently shaking the agency to its core.

Regardless of whether or not you grant expedited processing, you must provide a response within 20 working days with a possible extension of at most 10 working days if you are able to provide evidence that "unusual circumstances" as per 5 USC 552(a)(6)(B)(iii). (I will note, however, that the documents are likely found in HQ, not in field offices; that the request is not for a particularly voluminous amount of information; nor is this likely to require an inter-agency consultation. Hence, "unusual circumstances" as per the law are very unlikely to apply.)

I certify that this statement is correct to the best of my knowledge and belief.

Signed,

/s/

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